

Minutes of Public Meeting
ARIZONA BOARD OF FINGERPRINTING
November 10, 1999

The general meeting of the Arizona Board of Fingerprinting was held at the Department of Economic Security, 4th Floor, 1789 W. Jefferson, Phoenix, Arizona. The meeting began at approximately 9:14 a.m.

MEMBERS PRESENT

Mike LeHew
Corinne Velasquez
Joe Garcia
Cheryl Gira
Kim Pipersburgh

MEMBERS ABSENT

CALL TO ORDER

ROLL CALL

MINUTES

Ms. Velasquez made the motion that the Board approves the minutes of October 20, 1999 as presented. Motion carried 5-0.

MOTION

CHAIR REPORT

Mr. LeHew introduced the item. After discussion, Mr. LeHew directed the Director to arrange a meeting prior to the December 8, 1999 hearing to discuss hearing procedures. Meeting was scheduled for November 17, 1999 at 2:30 p.m. at DES.

CONSIDERATION OF PROCEDURES
FOR GOOD CAUSE EXCEPTION
HEARINGS

GENERAL SESSION

Mr. LeHew introduced the item. After a lengthy discussion, it was decided that the Board would submit four issues for legislative change to Senator Smith. The Board would also include a copy of the budget request in the package to Senator Smith. Ms. Velasquez made the motion to submit the four legislative issues to Senator Smith along with a copy of the revised budget request. Motion carried 5-0.

CONSIDERATION OF LEGISLATIVE
ISSUES FOR THE FY2000 SESSION

MOTION

CALL TO THE PUBLIC

Mr. Brad Willis, DES, addressed the Board to recommend that, in order to ensure confidentiality of appellants, the Board meet in Executive Session whenever discussions regarding hearings were held. Lisa Stelly, Attorney General's Office, recommended that the Board set time frames in Rule 13-11-102. D. and E. Currently there is no time frame in which the Board must respond to an appellant and she recommends that the Board designate a time frame for which the Board will provide an appellant with a notice of hearing. Joe Garcia, Administrative Office of the Courts, recommended that the Board hold meetings and hearings in high security locations or prevent appellants from bringing packages in with them.

ADJOURNMENT

Mr. Lehw adjourned the meeting at approximately 10:55 a.m.

Approved by the Board on the 21 day of March, 1999.

Mr. Le Hew
Chair

ARIZONA BOARD OF FINGERPRINTING

November 10, 1999

BUSINESS MEETING

AGENDA ITEM NO. III

BOARD OF FINGERPRINTING MEETING DATE: November 10, 1999

SUBJECT: Legislative Issues

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

The Board met last month and determined several issues that were Board related that might need clean-up legislation in the coming Legislative Session. The seven issues, as well as any associated legal issues are included for reference.

Each Board member was to review their own agency legislation as well as the Board of Fingerprinting Legislation to determine other issues that may need to be addressed.

Copies of the Board of Fingerprinting Statutes and previous clean-up legislation can be found immediately after this agenda item.

BOARD ACTION REQUESTED:
below)

INFORMATION [X]

ACTION [X] (described

Draft legislative changes to submit for the 2000 Legislative Session

ATTACHMENTS:

YES [X]

NO []

ISSUES:

1. Does the Board operate independently of the agencies it represents? *(see Legal Issues #5)*
2. Who has approval authority over a good cause exception that doesn't apply to their agency?
(see Legal Issues #4b and 8)
3. Are hearings always needed to approve an exception? *(see Legal Issues #7)*
4. Do all Board members need to be present at a hearing? *(see Legal Issues 4b and 8)*
5. Shall we include a grandfather clause for those already approved for a good cause exception so they won't have to go through the process again?
6. Shall we exclude people who have been exonerated by a court?
19. Shall we include a statute authorizing an alternate be appointed? *(see Legal Issues #6)*



ARIZONA BOARD OF FINGERPRINTING

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Telephone: (602) 223-2800 Fax: (602) 223-2947

Board Members:

Mr. Mike LeHew, Chair

Ms. Corinne Velasquez, Vice Chair

Mr. Joe Garcia

Ms. Cheryl Gira

Ms. Kim Pipersburgh

DATE: October 14, 1999

TO: Mike LeHew, Chair, Board of Fingerprinting

FROM: Sally Loveland *del*

SUBJECT: LEGAL ISSUES

COPY

FOR: ☐ action ☐ decision ☒ information ☐ signature

At your direction, I contacted the Attorney General's Office regarding the following legal issues related to good cause exception hearings. Each issue is followed by the attorney's response.

1. *Are good cause exception hearings except from the Open Meeting Law?*
(per Ms. Eva Bacal, Attorney General's Office)

Good cause exception hearings are exempt from the entire open meeting process. They are classified as "hearings" so they can not be held in Executive Session. However, they are not exempt from the Basic Administrative Hearing procedures.

Hearings can be held at any time. Decisions can be made during the hearings. No mention of the people's names need be made in the open meeting agenda or minutes, but hearing decisions and any directions provided to DPS must be announced in the open meeting.

2. *Is the Board required to prepare notice of hearings, findings of fact, and conclusions of law for good cause exception hearings?*
(per Ms. Eva Bacal, Attorney General's Office)

Yes. It is not necessary to transcribe every hearing if it is taped and the tapes are kept with the package. The Board will need to transcribe the hearing if the case ends up in court.

3. *As it relates to the Board and good cause exception hearings, what is a public record?*
(per Ms. Eva Bacal, Attorney General's Office)

Board meetings are subject to the Open Meeting Law so all minutes are public record. Good cause exception hearings are exempt by statute.

4. *Reference: 41-619.A.*

The following persons shall be present during good cause exception hearings:

1. A representative of any state agency that requires a person to have a valid fingerprint clearance card.

2. The person who requested the good cause exception hearing. The person may be accompanied by a representative at the hearing.

4a) *Does the applicant have to be physically present at the hearing or is a telephonic presence acceptable?*

(per Ms. Bacal and Mr. Jameson, Attorney General's Office)

The Board may establish its own rules on this issue. A telephonic presence is acceptable but the Board needs to revise its rules to reflect this.

4b) *Is the Board member who represents the agency who requires the above applicant to have the fingerprint card the only Board member that needs to be present?*

(per Mr. Jameson, Attorney General's Office)

A representative from each agency on the Board must be represented at each good cause exception hearing.

5. *Does the Board operate independently of the agencies it represents?*
(per Mr. Jameson, Attorney General's Office)

Absolutely. The Board is an entity separate and apart from the individual agencies whose members compile the Board.

6. *Where is it authorized that alternates be selected for the Board members?*
(per Mr. Jameson, Attorney General's Office)

Title 38, Section 461, Chapter one provides this authorization. It may also be a good idea to include in the Board's administrative rules that the same party who appointed the representative assign an alternate.

7. *Can the Board approve good cause exceptions for certain offenses without conducting a hearing? (i.e., maybe for an offense that occurred a long time ago or perhaps for less severe offenses – have a review process that would either approve or send to hearing; then on hearing cases – either approve or deny)*
(per Mr. Jameson, Attorney General's Office)

This type of process would need a statutory change.

8. *When approving good cause exceptions, is the unanimous decision based on the entire Board, on a quorum of Board members, or only the board members who represent agencies serving similar populations?*
(per Mr. Jameson, Attorney General's Office)

All good cause exception hearing decisions must be unanimous with at least a quorum of the Board members present.

ATTACHMENTS

- 1. Board of Fingerprinting Statutes**
- 2. FY 1999 Clean-up Legislation**
- 3. Board of Fingerprinting Rules**



41-619.51 . Definitions

(Eff. 7/1/99)

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services or the department of juvenile corrections.
2. "Board" means the board of fingerprinting.
3. "Facility" or "program" means state facilities or programs that provide direct services to adults with developmental disabilities or to juveniles.
4. "Good cause exception" means the issuance of a fingerprint clearance card to an employee after a hearing as prescribed in section 41-619.55.
5. "Person" means a person who is required to be fingerprinted pursuant to any of the following:
 - (a) Section 8-322.
 - (b) Section 15-512.
 - (c) Section 15-534.
 - (d) Section 15-1330.
 - (e) Section 36-425.03.
 - (f) Section 36-594.01.
 - (g) Section 36-882.
 - (h) Section 36-883.02.
 - (i) Section 36-897.01.
 - (j) Section 36-897.03.
 - (k) Section 36-3008.
 - (l) Section 41-1954.01.
 - (m) Section 41-1964.

(n) Section 41-2814.

(o) Section 46-141, subsection A.

(p) Section 46-321.

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**41-619.52 . Board of fingerprinting; organization; meetings**

(Eff. 7/1/99)

A. The board of fingerprinting is established consisting of the following members:

1. A representative of the supreme court appointed by the chief justice of the supreme court.
2. A representative of the department of economic security appointed by the director of the department of economic security.
3. A representative of the department of education appointed by the superintendent of public instruction.
4. A representative of the department of health services appointed by the director of the department of health services.
5. A representative of the department of juvenile corrections appointed by the director of the department of juvenile corrections.

B. At its initial meeting and annually thereafter, the board shall elect a chairperson and vice-chairperson from among its members and any other officers that are deemed necessary or advisable.

C. The board shall meet at least once each calendar quarter and additionally as the chairperson deems necessary. A majority of the members constitutes a quorum for the transaction of business.

D. Board members:

1. Serve at the pleasure of the appointing authority.
2. Are not eligible for compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

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**41-619.53 . Board of fingerprinting; powers and duties; personnel; liability**

(Eff. 7/1/99)

A. The board of fingerprinting shall:

1. Conduct good cause exception hearings pursuant to section 41-619.55.
2. Adopt rules to implement this article. These rules shall include procedures and standards for good cause exceptions including standards for agencies that serve similar populations to allow a good cause exception to be granted to an applicant.
3. Administer and enforce this article and rules adopted pursuant to this article.
4. Furnish a copy of its rules to an applicant, licensee, contract provider or state agency on request.

B. If the board members who represent agencies that serve similar populations unanimously agree to grant a good cause exception, the board shall request in writing that the department of public safety issue a card to the applicant. If the board does not make a unanimous decision, a card shall not be issued to the applicant.

C. Each board member shall determine on behalf of the member's respective agency or division whether a person should be granted a good cause exception.

D. If a person is required to be fingerprinted as a condition of employment by more than one agency and the person would not serve a common population and no common good cause exception standard exists, each member shall determine for the purposes of the member's agency alone whether good cause exception should be granted and notify the department of public safety to issue the person a card. The board shall request in writing that the department of public safety designate on the fingerprint clearance card the agency or agencies that approve a good cause exception.

E. The board may employ clerical, professional and technical personnel subject to appropriated monies and shall prescribe their duties and determine their compensation.

F. Members of the board are not liable for acts done or actions taken by any board member if the members act in good faith following the requirements of this article.

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41-619.54 . Confidentiality of criminal history record information; exception

(Eff. 7/1/99)

A. All criminal history record information maintained by the board is confidential, except that criminal history record information may be disclosed pursuant to a good cause exception hearing pursuant to section 41-619.55.

B. Persons present at a good cause exception hearing shall not discuss or share any criminal history record information outside of the good cause exception hearing.

C. Criminal history record information and good cause exception hearings are exempt from title 39, chapter 1.

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41-619.55 . Good cause exceptions

(Eff. 7/1/99)

A. The board shall:

1. Adopt rules to establish good cause exceptions for the issuance of class one and class two fingerprint clearance cards pursuant to section 41-1758.03. The rules shall define a common good cause exception standard for agencies that serve similar populations.
2. Furnish a copy of the rules to all applicants, and upon request to licensees, contract providers and agencies.

B. The following shall be present during good cause exception hearings:

1. A representative of any state agency that requires a person to have a valid fingerprint clearance card.
2. The person who requested the good cause exception hearing. The person may be accompanied by a representative at the hearing.

C. The board may grant a good cause exception if the person shows to the board's satisfaction that the person is successfully rehabilitated and is not a recidivist. Before granting a good cause exception the board shall consider all of the following:

1. The extent of the person's criminal record.
2. The length of time that has elapsed since the offense was committed.
3. The nature of the offense.
4. Any applicable mitigating circumstances.
5. The degree to which the person participated in the offense.
6. The extent of the person's rehabilitation, including:
 - (a) Completion of probation, parole or community supervision.
 - (b) Whether the person paid restitution or other compensation for the offense.
 - (c) Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling.
 - (d) Personal references attesting to the person's rehabilitation.

D. If the board grants a good cause exception to a person, the board shall request in writing that the department of public safety issue a class one or class two fingerprint clearance card to the person.

E. The board shall review reports it receives of the arrest, charging or conviction of a person for offenses listed in section 41-1758.03 who previously received a fingerprint clearance card.

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41-619.56 . Board of fingerprinting fund

(Eff. 7/1/99)

A. The board of fingerprinting fund is established consisting of monies appropriated by the legislature. The board shall administer the fund subject to legislative appropriation for the purposes provided in this article.

B. Monies deposited in the fingerprinting fund are subject to section 35-190.

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ARIZONA HOUSE OF REPRESENTATIVES FIRST REGULAR SESSION - 1999

☐ **DPA** For Committee on **EDUCATION**

☐ **DP** For Committee on **JUDICIARY**

☒ **X** For Caucus and COW

☐ **As Passed the House**

Abstract for SB 1362 (fingerprinting; cleanup) Sponsors: Smith

SB 1362 is an emergency measure that modifies Laws 1998, Chapter 270 relating to fingerprinting procedures for several state agencies. The bill provides a delayed effective date of August 16, 1999 and makes clarifying and conforming changes to the 1998 measure.

History:

In 1998, the Legislature standardized fingerprinting procedures for employment at several state agencies and created a single process administered by the Department of Public Safety (DPS). Laws 1998, Chapter 270 created a two-tiered system of clearance for agency employment and listed the criminal offenses that disqualify a person from obtaining a clearance card to work with certain client populations. A class one fingerprint clearance card allows direct contact with all participating agency client populations, including children and developmentally disabled clients. A class two fingerprint card allows direct services to children, but not to the developmentally disabled. The 1998 law included a delayed effective date of July 1, 1999.

SB 1362 addresses issues that have been identified as the affected agencies prepare to implement the provisions of the 1998 legislation.

Provisions:

- Deletes non-certified school personnel from the two-tiered fingerprint clearance card system established by the 1998 legislation. Non-certified school personnel will continue to be fingerprinted under the current system. Certified personnel will be fingerprinted according to the new fingerprint clearance card system.

- Exempts instructors who teach students off school property as part of a work release program or advanced placement courses from fingerprinting requirements. Requires written consent of the parent or guardian of the pupil for this instruction.

- Classifies falsification or misrepresentation on an application for employment or certification with a school district as a class 3 misdemeanor. (Up to 30 days in jail/\$500 fine.)
- Permanently continues authority for a school district governing board to hire noncertified and certified personnel before a fingerprint check is complete, if specific procedures are followed. Under current law, this authority ends June 30, 1999.
- Clarifies rule-making authority of the Board of Fingerprinting and exempts the Board from the Administrative Procedures statutes.
- Clarifies the right of a fingerprint clearance card applicant to petition the Board of Fingerprinting for a good cause exception hearing and to receive a copy of the Board's rules. Reconciles duplicate language.
- Authorizes DPS to revoke a clearance card of a person who is convicted of an offense that would have precluded the issuance of the initial card. Also authorizes DPS to deny issuance of a card to a person who is awaiting trial for those offenses.
- Requires DPS to notify the agency that licenses or employs a person, if DPS is prohibited from issuing a fingerprint clearance card to the person.
- Adds extreme DUI as an offense that precludes issuance of a class one and class two fingerprint clearance card. A person awaiting trial or convicted of this offense may request a good cause exception hearing.
- Postpones the delayed effective date of the 1998 legislation from July 1 to August 16, 1999.
- Contains an emergency clause.

SB 1362 was amended in the Education Committee as follows:

Allows a school district to provide general supervision, rather than direct supervision, for a person who has been hired before the results of a fingerprint check have been received.

SB 1362 passed the Judiciary Committee unamended.

Prepared by: Kathi Knox

sb1362.cow 3/26/99 cac

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Assigned to **JUD & ED** AS PASSED BY THE SENATE

ARIZONA STATE SENATE

Phoenix, Arizona

FINAL REVISED FACT SHEET FOR S.B. 1362 **fingerprinting; cleanup**

Purpose

An emergency measure to refine and cleanup legislation passed in 1998 creating a new division within the Department of Public Safety (DPS) to screen applicants for fingerprint clearance cards.

Background

An interagency task force worked for several years to consolidate and streamline the fingerprinting process for several state agencies:

- ◆ The Administrative Office of the Courts (AOC) - Juvenile Probation
- ◆ Department of Economic Security (DES)
- ◆ Department of Education (ADE)
- ◆ Department of Health Services (DHS)
- ◆ Department of Juvenile Corrections (DJC)

These agencies license people to work with children and developmentally disabled adults and children.

Laws 1998, Chapter 270 (H.B. 2585), which had an effective date of July 1, 1999, created a Division of Fingerprinting within DPS to screen applicants for fingerprint clearance cards and a two-tiered system of clearance cards for agency employees:

- (a) A class one fingerprint clearance card allows direct contact with all participating agency client populations (including all children and DES developmentally disabled clients).
- (b) A class two fingerprint clearance card allows direct services to children but not to developmentally disabled clients.

The issuance of class one or class two cards is dependent on a person's criminal history and requires subsequent background checks every three years.

After the passage of last year's legislation, the agencies involved began to prepare for the implementation of the new system. As they began this process, problems and issues arose. S.B. 1362 addresses these concerns and potential problems.

FACT SHEET S.B. 1362- Final Revised Page

Last year's legislation also established a five member Board of Fingerprinting to adopt procedures and standards for "good cause" exceptions for employees who are denied fingerprint clearance during the screening process, but who may be eligible for showing successful rehabilitation. There was not a specific duty of hearing the good cause exceptions imposed upon the Board, nor the right of a person to request a hearing. S.B. 1362 addresses this concern by specifying these procedures. The Board is comprised of one representative from each agency involved. It also provides an exemption of the Board from the rule-making process until July 1, 2000.

Members of the educational community expressed several concerns, one of them is the need for an exception to be created for nontraditional teachers, such as those who work with students as part of "work release" programs, which allow vocational education high school students for being trained in a private business. Also included in the educational community concerns was a request that noncertified school employees be excluded from the clearance system and an issue that currently there is no criminal penalty for falsifying information on an employment application or certification. S.B. 1362 addresses these concerns.

According to Legislative Council, there were two amendments to last year's legislation that were not able to be blended at the end of session last year, and numerous technical and conforming changes that needed to be made, S.B. 1362 also addresses these issues.

Also passed in the 1998 legislative session was a law adding the offense of extreme DUI to the criminal code. Inasmuch as the fingerprint card system was created in the same session, it did not include the offense of extreme DUI as a crime that would preclude the issuance of a fingerprint card. S.B. 1362 expands the prohibited offense list to include extreme DUI.

Because S.B. 1362 creates a misdemeanor crime, there are potential prosecution, defense, court and incarceration costs to be borne by the counties and cities depending on the number of defendants charged, tried and sentenced. These costs may be partially offset by potential fines.

Provisions

1. Creates a conditional exception from the fingerprint clearance card requirement for volunteers with the written consent of the parent or guardian of the students they will be working with. Another unconditional exception is made for people who work with students in education programs that occur off of school property, such as work-release and advance placement programs.

2. Excludes noncertified school employees from the new fingerprint clearance system.

3. Makes it a class 3 misdemeanor to falsify statements, representation or certification on any school district employment application or certification application. (Maximum penalty of 30 days in jail and a \$500 fine plus a 70% surcharge.)
4. Expands the list of crimes applicants are required to disclose when applying for a job to include extreme DUI.
5. Eliminates the seven day grace period for teachers to apply for a fingerprint clearance card after beginning employment.
6. Clarifies procedures for the Board of Fingerprinting to establish rules for a good cause exception hearing and allows the person not issued a card to request, and the board to consider, a good cause exception.
7. Allows the board to request that DPS revoke a person's fingerprint clearance card if the person received a class one or class two card and later is convicted of an offense that would have precluded the issuance of the initial card.
8. Requires DPS to inform all applicants of their right to petition the board for a good cause exception hearing.
9. Adds extreme DUI as an offense that would preclude the issuance of a class one and two clearance card.
10. Grants the fingerprint division of DPS the authority to notify the employing agency when it determines it cannot issue a clearance card.
11. Requires school districts to provide general supervision of certificated and non-certificated employees until the time the fingerprint check is complete.
12. Changes from July 1, 1999 to August 17, 1999 the effective date of the sections of the bill relating to the fingerprint clearance card system.
13. Makes technical and conforming changes.
14. Contains an emergency clause.

Amendments Adopted by Judiciary Committee

1. Grants the fingerprint division of DPS the authority to notify the employing agency when they determine they cannot issue a clearance card.
2. Applies delayed effective date to the sections of the bill relating to the fingerprint clearance card system.
3. Makes conforming changes.

Amendments Adopted by Committee of the Whole

1. Expands the crime of falsifying documents for employment to include falsifying documents for certification.
2. Makes technical and clarifying changes.

Amendments Adopted by the House of Representatives

1. Reduces the responsibility of school districts by only requiring them to provide general supervision of both certificated and non-certificated employees until the time a fingerprint check is complete, rather than requiring line-of-sight supervision.

Senate Action House Action

JUD 2/9/99 DPA 7-0-2-0 EDUC 3/17/99 DPA 9-0-0-3

EDUC DP 9-0-0-0 JUD 3/24/99 DP 6-0-0-3

3rd Read 29-0-1-0 3rd Read 4/27/99 57-1-2-0

Signed by Governor 5/5/99

Chapter 316

Prepared by Senate Staff

May 27, 1999

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ARTICLE. 1

BOARD OF FINGERPRINTING

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R13-11-101. Applicability

This Article applies to activities and persons identified in Arizona Revised Statutes, Title 41, Chapter 3, Article 12.

R13-11-102. Good Cause Exception Hearings

- A. A person who meets the requirements of A.R.S. § 41-1758.03 and wishes to apply for a good cause exception hearing shall submit a completed application to the Board of Fingerprinting within 30 calendar days of the date notice by the Department of Public Safety of eligibility to apply for a good cause exception hearing.
- B. The written request for a good cause exception hearing shall:
1. Be made on forms prescribed by the Board of Fingerprinting; and
 2. Include a copy of the denial letter received from the Department of Public Safety.
- C. Within 15 days of receipt of a written request from an applicant for a good cause exception hearing, the Board of Fingerprinting shall notify the applicant in writing of their eligibility for a hearing.
- D. The applicant shall submit, when applicable, the following materials to the Board of Fingerprinting for a good cause exception hearing:
1. The good cause exception submittal form.
 2. The extent of the person's criminal record.
 3. The length of time that has elapsed since the offense was committed.
 4. The nature of the offense.
 5. The degree to which the person participated in the offense.
 6. Any applicable mitigating circumstances.

- 7. The extent of the person's rehabilitation, including:
 - a. Completion of probation, parole or community supervision.
 - b. Whether the person paid restitution or other compensation for the offense.
 - c. Evidence of positive action to change criminal behavior, such as completion of a drug treatment plan or counseling.
 - d. Personal references attesting to the person's rehabilitation.
- E. The Board of Fingerprinting shall schedule and issue a written notice for the good cause exception hearing after receipt from the applicant of the completed good cause exception hearing request submittal form and all applicable documents.
- F. The Board of Fingerprinting shall send to the individual in writing the date, time, place, and telephone number of the good cause exception hearing.

R13-11-103. Notification of Decision for Good Cause Exception Hearing

- A. The Board of Fingerprinting shall notify the applicant in writing of the Board's decision.
- B. When a good cause exception is granted, the Board of Fingerprinting shall request, in writing, the Department of Public Safety to issue a fingerprint clearance card.

R13-11-104. Requests for Good Cause Exception - No Dispositions

An individual who is denied a fingerprint clearance card pursuant to A.R.S. § 41-1758.03(O) may request a good cause exception hearing. The hearing will be conducted as prescribed in R13-11-102 except that the required documentation shall include information relating to the disposition of the offense.

R13-11-105. Confidentiality

All information relating to an individuals criminal history is confidential and shall not be disseminated or disclosed except as required by law.

ARIZONA BOARD OF FINGERPRINTING

PROPOSED LEGISLATIVE CHANGES FOR FY2000 SESSION

1. A.R.S. § 41.619.53 – Currently Reads

- A. The board of fingerprinting shall:
- 2. Adopt rules to implement this article. These rules shall include procedures and standards for good cause exceptions including standards that serve similar populations to allow a good cause exception to be granted to an applicant.
- B. If the board members who represent agencies that serve similar populations unanimously agree to grant a good cause exception, the board shall request in writing that the department of public safety issue a card to the applicant. If the board does not make a unanimous decision, a card shall not be issued to the applicant.

A.R.S. § 41.619.53 – Proposed

- A. The board of fingerprinting shall:
- 2. Adopt rules to implement this article. These rules shall include procedures and standards for GRANTING good cause exceptions *including standards that serve similar populations to allow a good cause exception to be granted to an applicant.*
- B. If the board members *who represent agencies that serve similar populations* unanimously agree to grant a good cause exception, the board shall request in writing that the department of public safety issue a card to the applicant. If the board does not make a unanimous decision, a card shall not be issued to the applicant.

Commentary:

The phrase “similar populations” is confusing and redundant. The purpose of this change is to strike “similar populations” from the statutes.

2. A.R.S. § 41.619.55 – Currently Reads

- B. The following shall be present during good cause exception hearings:
 - 1. A representative of any state agency that requires a person to have a valid fingerprint clearance card.
 - 2. The person who requested the good cause exception hearing. The person may be accompanied by a representative at the hearing.

A.R.S. § 41.619.55 – Proposed

B. WHEN HEARING GOOD CAUSE EXCEPTIONS:

1. A REPRESENTATIVE FROM EACH STATE AGENCY ON THE BOARD SHALL BE PRESENT WHEN HEARING GOOD CAUSE EXCEPTIONS.
2. THE BOARD MAY APPROVE A GOOD CAUSE EXCEPTION WITHOUT HOLDING A HEARING.
3. THE BOARD MUST HOLD A HEARING TO DENY AN APPEAL FOR A GOOD CAUSE EXCEPTION.
4. The person who requested the good cause exception hearing HAS A RIGHT TO be present during the hearing. The person may be accompanied by a representative at the hearing.

F. UPON REVOCATION OF A FINGERPRINT CLEARANCE CARD, THE APPLICANT MAY NOT REAPPLY PERIOD OF TWELVE (12) MONTHS.

Commentary:

The Board feels that these modifications will allow the Board flexibility in approving appeals at the same time that they would reduce the number of formal hearings needed. Additionally, not requiring the person who requested the good cause exception to be present, reduces the hardship on those appellants who do not live in the metropolitan Phoenix area.

1999/2000

ARIZONA BOARD OF FINGERPRINTING

MEETING SCHEDULE AND DEADLINES

AGENDA ITEMS DUE	INFO TO MEMBERS	BOARD MEETING
October 27, 1999	November 3, 1999	November 10, 1999
November 24, 1999	December 1, 1999	December 8, 1999
December 29, 1999 (Hearing info)	January 5, 2000	January 12, 2000
January 26, 2000	February 2, 2000	February 9, 2000
February 23, 2000	March 1, 2000	March 8, 2000
March 29, 2000	April 5, 2000	April 12, 2000
April 26, 2000	May 3, 2000	May 10, 2000
May 31, 2000	June 7, 2000	June 14, 2000
June 28, 2000	July 5, 2000	July 12, 2000
July 26, 2000	August 2, 2000	August 9, 2000
August 30, 2000	September 6, 2000	September 13, 2000
September 27, 2000	October 4, 2000	October 11, 2000